



EPW

PATENT  
Customer No. 22,852  
Attorney Docket No. 08048.0027-00000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
Jean-Louis H. GUERET ) Group Art Unit: 3732  
Application No.: 10/084,939 ) Examiner: R. Doan  
Filed: March 1, 2002 ) Confirmation No.: 8280  
For: BRUSH AND METHOD OF )  
MAKING BRUSH )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO ELECTION OF SPECIES REQUIREMENT**

In an Office Action dated January 24, 2005, the Examiner indicated that "the previous election/restrictions requirement has been vacated." Further, the Office Action dated January 24, 2005, includes an Interview Summary indicating that the Office Action mailed July 19, 2004, has been vacated.

Nevertheless, the Office Action dated January 24, 2005, requires an election under 35 U.S.C. § 121 of one of the following seventeen (17) asserted species:

- Species I, shown in Figs. 1-7;
- Species II, shown in Figs. 8 and 9;
- Species III, shown in Figs. 10 and 11;
- Species IV, shown in Figs. 12 and 13;
- Species V, shown in Figs. 14 and 15;
- Species VI, shown in Figs. 16-19;

Species VII, shown in Figs. 20-24;  
Species VIII, shown in Figs. 25, 29, 30, and 37;  
Species IX, shown in Figs. 26, 31, 32, and 38;  
Species X, shown in Figs. 27, 33, 34, and 39;  
Species XI, shown in Figs. 28, 35, 36, and 40;  
Species XII, shown in Fig. 41;  
Species XIII, shown in Fig. 42;  
Species XIV, shown in Figs. 44-46;  
Species XV, shown in Fig. 47;  
Species XVI, shown in Fig. 48; and  
Species XVII, shown in Fig. 51.

Applicant respectfully disagrees with aspects of the election of species requirement (“requirement”) and respectfully requests that the Examiner withdraw this requirement so that all of Applicant’s claims will be examined on the merits at least for the reasons explained below.

Applicant respectfully disagrees with the election of species requirement for a number of reasons. For example, the requirement asserts that none of the claims is generic “because claims 1, 31, 61, 91, 120, 150, 180, 210, 240 are claiming the cross section of at least one position along the length of the core is substantially asymmetric which falls into species VI, XII Figures 17, 42.” Office Action at 3. Based on the requirement’s assertion, the meaning of the term “asymmetric” as used in the claims and/or the specification has clearly been misunderstood. For example, contrary to the assertion in the requirement, the feature of: “wherein the cross-section of the brush at least one position along the length of the core is substantially asymmetric in relation to a plane perpendicular to the plane of curvature . . .” is readable on each of

the exemplary species shown in the drawings of the present application. See, e.g., Applicant's Specification at p. 2, paragraphs [007] and [008] (explaining the meaning of the terms "cross-section" and "plane of curvature"). Therefore, Applicant respectfully traverses at least this aspect of the requirement at least because independent claims 1, 31, 61, 91, 120, 150, 180, and 210, directed to a brush, and independent claims 240 and 272, directed to a method of manufacturing a brush, are generic.

Applicant also traverses the requirement at least because the requirement incorrectly identifies figures showing the same species as showing different species and incorrectly identifies figures showing different species as showing the same species. For example, the requirement has incorrectly identified Figs. 1-7 as depicting a single species while the application clearly discloses that Fig. 3A depicts a blank embodiment that is distinct from the blank embodiment depicted in Figs. 1-3. See, e.g., Applicant's Specification at p. 20, paragraph [0131]. Furthermore, the requirement has incorrectly identified Figs. 14 and 15, and Figs. 16-19 as depicting two separate species while the application clearly discloses that all of Figs. 14-19 schematically depict a single exemplary embodiment of brush shown in different states of manufacture. See, e.g., Id. at pp. 22-23, paragraphs [0138] - [0141].

For at least the reasons mentioned above, Applicant respectfully requests that the Examiner withdraw the election of species requirement and examine all of the claims of the alleged species together. If the Examiner insists on maintaining the election of species requirement, Applicant respectfully requests that the Examiner make the election of species requirement final as soon as possible so that Applicant will have an opportunity to file a petition requesting the Group Director to review the election of species requirement.

If the Examiner insists on maintaining the election of species requirement and refuses to withdraw it, Applicant provisionally elects with traverse Species I, shown in Figs. 1-3 and 4-7. At least claims 1, 3, 4, 6, 7, 15-19, 21-31, 33-35, 37, 45-49, 51-61, 64, 66, 67, 74-79, 81-91, 93, 94, 96, 104-108, 110-120, 122-126, 134-138, 140-150, 152, 153, 155, 156, 164-168, 170-172, 178, 179, 182, 183, 185, 186, 194-210, 212, 213, 215, 216, 224-228, 230-240, 245, 247, 250-265, 267-269, 271-273, 280-288, 290-294, 296, and 297 are "readable" on the elected species. Further, as outlined above, at least independent claims 1, 31, 61, 91, 120, 150, 180, 210, 240, and 272 are generic.

The Office Action contains numerous characterizations of the disclosure and the claims with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

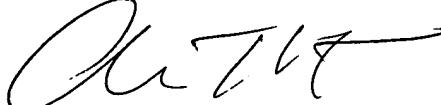
The Examiner is invited to call Applicant's undersigned attorney at (571) 203-2739 if a telephone conversation would expedite the prosecution of the above-referenced application.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By:

  
Christopher T. Kent  
Reg. No. 48,216

Dated: February 24, 2005